



Caplin & Drysdale, Chartered  
600 Lexington Avenue, 21st Floor  
New York, NY 10022-7619  
212-379-6000 212-379-6001 Fax  
[www.caplindrysdale.com](http://www.caplindrysdale.com)

212.379.6060 Direct  
[mallison@capdale.com](mailto:mallison@capdale.com)

October 24, 2018

**Via ECF and Hand Delivery**

Honorable Lewis A. Kaplan, United States District Judge  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

Re: In re: Customs and Tax Administration of the Kingdom of Denmark (SKAT) Tax Refund Litigation, Docket Number 18-md-2865 (LAK)

Dear Judge Kaplan:

Pursuant to this Court's Pretrial Order No. 4 dated October 10, 2018, this letter serves as an application of Mark D. Allison of Caplin & Drysdale, Chartered, for an appointment either as Lead Counsel or Co-Lead Counsel on behalf of the Defendants consolidated pursuant to the October 3, 2018 Order (the "Transfer Order") of the U.S. Judicial Panel on Multidistrict Litigation with respect to the above-captioned matter (the "Consolidated Action").

In May and June of 2018, Plaintiff SKAT filed 140 actions in eleven (11) federal districts, including the Southern District of New York. On July 23, 2018, SKAT moved for an order transferring and centralizing for consolidated pretrial proceedings in the Southern District of New York all actions filed by SKAT in the federal courts pursuant to the multidistrict litigation procedures at 28 U.S.C. § 1407. On October 3, 2018, the United States Judicial Panel on Multidistrict Litigation issued the Transfer Order consolidating and transferring all of the SKAT actions pending in federal district courts to the Southern District of New York.

Of the 140 consolidated actions, I, Mark D. Allison, either directly or through local counsel (for which *pro hac vice* admissions were granted), am lead counsel in 104 of those cases in the following federal district courts:

- U.S. District Court for the Southern District of New York: Forty three (43) cases;
- U.S. District Court of New Jersey: Thirty three (33) cases;
- U.S. District Court of Massachusetts: Twelve (12) cases;



- U.S. District Court of the Southern District of Ohio: Four (4) cases;
- U.S. District Court for the Southern District of Florida: Two (2) cases;
- U.S. District Court for the Southern District of Texas: Six (6) cases;
- U.S. District Court for the Northern District of Illinois: Three (3) cases; and
- U.S. District Court of Connecticut: One (1) case.<sup>1</sup>

(See Appendix A for a detailed list of all cases for which I and Caplin & Drysdale, Chartered, serve as lead counsel.) Of the foregoing, we represent the majority of the Defendants in the Southern District of New York and the District of New Jersey, and we are the sole counsel for all Defendants in the District of Massachusetts, the Southern District of Ohio, the Southern District of Florida, the Southern District of Texas and the Northern District of Illinois.

I, in conjunction with Caplin & Drysdale, Chartered, am qualified to serve as Lead Counsel or Co-Lead Counsel in the Consolidated Action. I am an experienced tax litigator, with over 20 years of tax controversy and litigation experience. My extensive work in tax, tax litigation, and the white collar defense arena had provided me with significant exposure to complex cross-border tax litigation issues, including those that arise under operative U.S. treaties, and which often involve the nuanced interplay with foreign tax law. I have also previously served in a similar role as the *de facto* lead counsel for large groups of similarly-situated taxpayers in other litigation matters with the Internal Revenue Service in the US Tax Court (including those involving the participants in benefit plans like those at issue here, such as the Millennium Multiple Employer Welfare Benefit Plan litigation and the Professional Benefits Plan litigation). Moreover, Caplin & Drysdale, Chartered, a well-known and regarded tax litigation boutique, has a separate practice group dedicated to commercial and complex litigation, which does (and would continue to) provide support in connection with this litigation. I have a team of attorneys and paralegals who have been working closely with me from the inception of this matter, including my co-counsel Zhanna A. Ziering, a tax controversy and litigation attorney, and James P. Wehner, whose practice focuses on complex commercial litigation. (See Appendix B for public profiles of Mark D. Allison and the designated Caplin & Drysdale attorneys).

As a result of representing Defendants in 104 out of the 140 pending SKAT actions, I, together with my team, have already undertaken a lead role in this litigation with respect to research, developing legal arguments, preparing court filings and other submissions, and coordinating with other counsel for the other Defendants, as well as with Plaintiff's counsel. As such, it would be practicable and prudent for me to continue acting in such role in the Consolidated Action. Further, given the overwhelming number of my clients named as Defendants in the Consolidated Action, it would be logical for me to continue representing their interest as Lead Counsel or Co-Lead Counsel, particularly to avoid duplicating the legal expense already incurred by this large group. I also believe I am able to work and coordinate with other defense counsel to ensure their client interests are adequately represented, as we have sought to do to date.

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<sup>1</sup> In addition to the 104 pending actions in the federal district courts, I represent defendants in four related cases pending in state courts.



In connection with this application, I have sought input from other defense counsel. While no one has expressed an objection to me seeking an appointment as Lead Counsel, at least one other has indicated their intent to seek an appointment as Co-Lead Counsel. I generally do not oppose an appointment of a group of Lead Counsel, but reserve an opportunity to supplement this letter with a more concrete proposal with respect to the leadership structure and cost allocation, once it is known who else is seeking such appointment and with any other information as this Court may deem necessary.

Respectfully submitted,  
Mark Allison, Esq.

Enclosures: as stated.

cc: All counsel of record via ECF.

Via First Class Mail, without enclosures:

The Raubritter LLC Pension Plan  
The Random Holdings 401K Plan  
Edgepoint Capital LLC Roth 401K Plan  
Aerovane Logistics LLC Roth 401K Plan  
Headsail Manufacturing LLC Roth 401K Plan